

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (CGM)

SIPA LIQUIDATION

(Substantively Consolidated)

In re: BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the
Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC
and the Chapter 7 Estate of Bernard L. Madoff,

Plaintiff,

v.

BSI AG, individually and as successor in interest
to BANCO DEL GOTTARDO AG,

Defendant.

Adv. Pro. No. 12-01209 (CGM)

STIPULATION AND ORDER TO WAIVE ORAL ARGUMENT

Irving H. Picard (the “Trustee”), as trustee for the substantively consolidated liquidation of the business of Bernard L. Madoff Investment Securities LLC, under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa–III, and the estate of Bernard L. Madoff, under Chapter 7 of the United States Bankruptcy Code, 11 U.S.C. §§ 701-784, and defendant BSI AG (a/k/a BSI S.A.), individually and as alleged successor in interest to Banca Del Gottardo AG (“Defendant,”

and with the Trustee, the “Parties”), by and through their respective undersigned counsel, stipulate and agree as follows:

WHEREAS, on June 24, 2022, Defendant filed a motion to dismiss the Trustee’s complaint (the “Motion”) [ECF No. 122], including a supporting memorandum of law [ECF No. 123] and the Declarations of Paul A. Kanellopoulos [ECF No. 124], Massimo Antonini [ECF No. 125], and Andrea Russi [ECF No. 126]; on August 26, 2022, the Trustee filed an Opposition to Defendant’s Motion [ECF No. 129] and the supporting Declaration of Robertson D. Beckerlegge [ECF No. 130] (the “Opposition”); and on September 30, 2022, Defendant filed a reply in further support of its Motion [ECF No. 132] (the “Reply”, and together with the Motion and Opposition, the “Briefing”);

WHEREAS, the Court scheduled a hearing to consider the Motion on October 19, 2022 at 10:00 am; and

WHEREAS, the Parties have conferred and agreed to rest on their papers and waive oral argument on the Motion.

IT IS HEREBY STIPULATED AND AGREED, by the Parties, and **SO ORDERED**, by the Court:

1. The Court will not hear oral argument on the Motion, and thus the hearing scheduled for 10:00 am on October 19, 2022, to consider the Motion is hereby cancelled and removed from the Court’s calendar.
2. The Parties request that the Court issue its ruling based on the Briefing.

3. The Parties otherwise reserve all rights, arguments, objections, and defenses they may have, and their entry into this Stipulation shall not impair or otherwise affect any such rights, arguments, objections, and defenses.

Dated: October 4, 2022
New York, New York

BAKER & HOSTETLER LLP

By: /s/ Robertson D. Beckerlegge
45 Rockefeller Plaza
New York, New York 10111
Telephone: (212) 589-4200
Facsimile: (212) 589-4201
David J. Sheehan
Email: dsheehan@bakerlaw.com
Robertson D. Beckerlegge
Email: rbeckerlegge@bakerlaw.com

*Attorneys for Irving H. Picard, Trustee
for the Substantively Consolidated
SIPA Liquidation of Bernard L. Madoff
Investment Securities LLC and Chapter
7 Estate of Bernard L. Madoff*

KOBRE & KIM LLP

By: /s/ Adam M. Lavine
800 Third Avenue
New York, New York 10022
Telephone: (212) 488-1200
Zachary D. Rosenbaum
Zachary.Rosenbaum@kobrekim.com
Adam M. Lavine
Adam.Lavine@kobrekim.com

Attorneys for BSI AG

**Dated: October 6, 2022
Poughkeepsie, New York**



/s/ Cecelia G. Morris

**Hon. Cecelia G. Morris
U.S. Bankruptcy Judge**